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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

1168 UNION STREET, SUITE 400, SAN DIEGO, CA 92101-3819

TELEPHONE: (619) 238-6776 FAX: (619) 238-6775

www.sdcounty.ca.gov/clerb

REGULAR MEETING AGENDA

TUESDAY, NOVEMBER 9, 2010, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.

(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Ana Becker at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the October 2010 Regular Meeting (*Attachment A*)

3. EXECUTIVE OFFICER'S REPORT

- a) Workload Report - Open Complaints/Investigations Report (*Attachment B*)

4. NEW BUSINESS

- a) Community Perspective on Civilian Oversight of Law Enforcement:
Kevin Keenan, Executive Director, American Civil Liberties Union of San Diego & Imperial Counties

5. UNFINISHED BUSINESS

- a) SDSO Representative in Closed Session Meetings
- b) SDSO response to CLERB Policy Recommendation 09-125/Peruta.

-continued on next page-

6. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary. Each speaker will be limited to three minutes.

7. CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (7)

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

09-100

1. Excessive Force – Deputy 1 escorted the injured complainant down a stairwell while lifting his handcuffs upward and forward. He then pushed the complainant's face forward into a steel door and threw him down onto the cement floor resulting in bruising to his cheek and temple and reddening of his eye.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Discourtesy – Deputy 1 said to the complainant, "Listen you piece of shit deal with it," and "Fuck you baby raper."

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Intimidation – Deputy 1 said to the complainant, "You'll get what's coming to you," and "if you move it will be painful."

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 2 failed to take action when the complainant told him about deputy misconduct and showed him "the cuts and horrific bruising on my wrist."

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 1 endangered the complainant’s life by disclosing his charges to other inmates and telling Harris, “You’re fucked”.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Harassment – Deputies 1 and 2 entered the complainant’s cell and told his cellmate to “get your shit ready, you’re not going to want to be in this” as they stood by intimidating manner with balled fists.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Intimidation – Deputy 1 with “hate in his eyes and a scowl that screamed anger” threateningly said to the complainant, “Don’t sleep.”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Misconduct/Procedure – Deputy 2 refused to review videotape evidence, interview witnesses and told the complainant, “There is nothing I can do.”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Misconduct/Procedure – Deputies 1 and 2 did not properly process the complainant’s medical request form for injuries and refused to initial it or provide a copy to him.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Misconduct/Discourtesy – Deputy 2 said in response to the complainant’s criticism of jail conditions, “It’s fucking jail. Welcome to George Bailey.”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

11. Misconduct/Procedure – Deputy 2 denied the complainant phone, shower and yard privileges for 6 days although disciplinary action was only for loss of commissary items.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

12. Misconduct/Procedure – Deputy 2 failed to properly process the complainant’s money orders.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

09-107

1. Misconduct/Procedure - Deputy 1 housed the complainant with inmates where the complainant said he did not feel safe.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputies 1, 2 and/or 3, when told that other inmates had threatened the complainant, failed to move the complainant. The complainant was later beaten by the inmates who had threatened him.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

09-109

1. Misconduct/Procedure - Deputy 1 wrote the complainant up for disobeying an order to move, which resulted in discipline, even though the complainant was unable to comply because he is wheelchair-bound.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Discourtesy - Deputy 1 slammed the cell door and cursed at the complainant stating “Well then you can go on Lock-down.”

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Discrimination/Other - Deputy 2 placed the complainant into Administrative Segregation to punish him because he is in a wheelchair.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

09-112

1. Illegal Search & Seizure – Probation Officer 1 searched the complainant's property in Lakeside on September 30, 2009, for a former tenant.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Illegal Search & Seizure – Probation Officer 1 raided the complainant's property in Santee on October 8, 2009.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Excessive Force / Brandishing Firearm – Probation Officer 1 pushed a gun into the face of a senior citizen doing dishes.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Discourtesy – Probation Officer 1 demonstrated “high-fives” during their raid.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

5. False Arrest – Probation Officer 1 handcuffed, questioned and took mugshots of tenants with no 4th waiver for over two hours.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Excessive Force/Handcuffs – Probation Officer 1 handcuffed a woman with cerebral palsy.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Truthfulness – Probation Officer 1 untruthfully stated they were given permission to enter the residence by the residents.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

(*Please note:* Present allegations against Department of Planning & Land Use and past allegations against the San Diego Sheriff’s Department; do not fall within CLERB’s jurisdiction.)

09-115

1. Misconduct/Procedure – Deputy 2 did not comply with co-complainant Braggs’ medical chronos.

Recommended Finding: Sustained

Rationale: On October 9, 2009, co-complainant Braggs reported to the Recreation Yard for a weekly clipper shave and was turned away because the inmate barber did not have the appropriate tools. Documentation was unavailable to demonstrate compliance with policy; therefore the evidence supports a violation of Sheriff’s Policy and Procedure, L.9 Inmate Haircuts, and San Diego Central Jail Green Sheet, L.9.C.1 Inmate Haircuts.

2. Misconduct/Discourtesy – Deputy 1 told co-complainant Braggs, “Because I fucking said so!”

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied making this statement. Other witnesses that may have been present could not be properly identified. There is insufficient evidence to either prove or disprove this allegation.

3. Misconduct/Procedure – Deputy 2 did not comply with co-complainant Williams’s medical chronos for shaving bumps.

Recommended Finding: Sustained

Rationale: On October 9, 2009, co-complainant Williams reported to the Recreation Yard for a weekly clipper shave and was turned away because the inmate barber did not have the appropriate tools. Documentation was

unavailable to demonstrate compliance with policy; therefore the evidence supports a violation of Sheriff's Policy and Procedure, L.9 Inmate Haircuts, and San Diego Central Jail Green Sheet, L.9.C.1 Inmate Haircuts.

4. Misconduct/Discourtesy – Deputy 1 “had attitude” and was rude to co-complainant Williams.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied having any contact or making any statements to co-complainant Williams. Other witnesses that may have been present could not be properly identified. There is insufficient evidence to either prove or disprove this allegation.

09-120

1. Illegal Search & Seizure – Deputy 1 stopped the complainant for no apparent reason.

Recommended Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 1 spoke to the English-speaking complainant in Spanish.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Discourtesy – Deputy 1 “cussed” at the complainant in Spanish.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Criminal Conduct – Deputy 1 seized the complainant's wallet and then ordered him to leave without further explanation.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1.

10-093

1. Excessive Force/Other - Deputy 1 punched the complainant in the face, grabbed her by the hair, threw her to the ground, stomped on her face twice and kicked her in the back.

Recommended Finding: Summary Dismissal

Rationale: Deputy 1 was off duty at the time of this incident, and at no time activated his status as a peace officer employed by the Sheriff's department. As such, these allegations are not within CLERB's jurisdiction. This complaint is referred back to the Sheriff's Department Internal Affairs Division which has the authority to investigate this matter.

2. Misconduct/Discourtesy - Deputy 1 yelled into the face of the complainant.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1

3. Excessive Force/Other - Deputy 1 chased and tackled the boyfriend of the complainant after he attempted to push the deputy off of the complainant.

Recommended Finding: Summary Dismissal

Rationale: See Rationale #1